
(2013) 09 BOM CK 0212

In the Bombay High Court

Case No : Criminal Writ Petition No. 367 of 2013

Haridas

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 19-09-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 990

Hon'ble Judges : Z.A. Haq, J;B.R. Gavai, J

Bench : Division Bench

Judgement

B.R. Gavai, J.—Rule. The rule is made returnable forthwith. Heard finally by consent of learned Counsel for the parties. The petitioner has approached this Court being aggrieved by rejection of his application for furlough.

2. Perusal of the impugned order dated 12/12/2012 reveals that the application of the petitioner for furlough is rejected on two grounds - firstly, the petitioner surrendered belatedly on several occasions when he was released on either parole or furlough and secondly, the Police report is adverse to the effect that the witnesses were terrorised by the petitioner whenever he was released from prison.

3. Insofar as first ground that the petitioner had reported back to the prison belatedly on several occasions is concerned, it is to be noted that the petitioner had surrendered himself and he was not required to be arrested by Police to bring him back in prison. In any case for belated surrender, the Authorities are always empowered to impose penalty as permissible in law. Insofar as adverse Police report is concerned, we had asked the Police Authorities to file an affidavit in support of the allegations. Accordingly one Abhinash Kumar. Superintendent of Police, Wardha has filed an affidavit stating therein that one witness, namely, Deorao Ramaji Rahate has stated that whenever petitioner was released from prison, he was threatening him. It is to be noted that the trial is concluded and as such, the question of tampering with the evidence of witnesses does not arise and secondly, except bare statement, there is not even a crime reported against

the petitioner that he has misused his liberty whenever released either on parole or furlough: In that view of the matter, we find that rejection of the application of the petitioner for furlough is not sustainable.

4. In the result, the criminal writ petition is allowed. The petitioner is directed to be released on furlough for a period of fifteen days. The rule is made absolute in the aforesaid terms. No order as to costs.